

The 25th April, 1975

No. 3868-4Lab-75/14799.—In pursuance of the provision of Section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad in respect of the dispute between the workmen and the Management of M/s Marks Electroplator, 14, Mathura Road, Faridabad.

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Reference No 189 of 1973

between

SHRI KUMAR SINGH, WORKMAN AND THE MANAGEMENT OF M/S MARKS
ELECTROPLATOR, 14-MATHURA ROAD, FARIDABAD

Present:—

Shri Roshan Lal Sharma, for the workman,

Shri H. R. Dua, for the management.

AWARD

By order No. ID/FD/73/455/45089, dated 29th November, 1973 of the Governor of Haryana, the following dispute between the management of M/s Marks Electroplator, 14-Mathura Road, Faridabad and its workman Shri Kumar Singh, was referred for adjudication to this Tribunal, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, with the following term of reference:—

Whether the termination of services of Shri Kumar Singh was justified and in order? If not, to what relief is he entitled?

On receipt of the order of reference, the parties were called upon to put in their respective pleadings. The workman filed the statement of claim contending that his services had been terminated by the management illegally and without any justification and his demand for re-instatement had not been accepted. The management contested his claim on merits pleading *inter alia* that the description of the management had been correctly given in the demand notice as well as the order of reference and that the demand had not been first raised on the management and rejected by it before taking up the matter for conciliation.

The following three issues arose for determination in the case:—

- (1) Whether the description of the respondent concerned has been correctly given in the demand notice as well as the order of reference? If not, with what affect? (on workman)
- (2) Whether the demand the subject matter of the present reference was first raised on the management and rejected by it before taking up the matter for conciliation? If not, with what effect? (on workman)
- (3) Whether the termination of services of Shri Kumar Singh was justified and in order? If not, what relief is he entitled?

Shri Kumar Singh, workman concerned, has made his own statement. According to him, he had put in service for about 3 years but the management had terminated his services without giving him any warning or chargesheet and ignoring his right of seniority by retaining in service another Electroplator who was junior to him. He has further stated that he had approached the management and written letters for reinstatement but without success. In cross-examination, however, he has admitted in clear words that before giving the demand notice to the Conciliation Officer he had not written any letter or given any demand notice direct to the management. He has further admitted that the correct description of the management is M/s Marks Electroplator, 14-Mathura Road Faridabad. The management has led no evidence.

I have heard the learned representatives of the parties and considered the facts on record. As already pointed out, the present reference has been made against M/s Marks Electroplator, 14-Mathura Road, Faridabad. The management had raised an objection in the very beginning while filing the written statement that this description of the management given in the demand notice as well as the order of reference was wrong as the correct description was M/s Marks Electroplator, 14-Mathura Road, Faridabad. In spite the specific objection raised in the written statement on behalf of the management the workman concerned did not take any step for getting the reference of the dispute made against M/s Marks Electroplator, 14-Mathura Road, Faridabad by approaching the Government. He rather

insisted that the description had been correctly given. In the statement of claim filed in the case also the description of the management has been given as M/s Mars Electroplator, 14-Mathura Road, Faridabad. In his statement recorded today, however, he has admitted in so many words that the correct description of this management is M/s Mars Electroplator 14-Mathura Road, Faridabad. So, according to the showing of the workman himself the reference has not been made against the proper management and as such it is bad in law and cannot proceed in the present form. Issue No. 1 is accordingly decided against the workman.

Issue No. 2.—With regard to issue No. 2 also the workman concerned has made out no good case. In cross examination, he has admitted in clear and unambiguous words that before giving the demand notice to the Conciliation Officer whereupon the present reference has been made, he had not written any letter or given any demand notice direct to the management. The law is well settled on the point. As held by Hon'ble the Supreme Court in the oft-quoted Sindhu Re-settlement Corporation case, the demand has first to be raised on the management and rejected by it before taking up the matter for conciliation so as to constitute an industrial dispute. This important requirement of law has not been satisfied by the workman in the instant case according to his own statement on oath. The fact, therefore, remains that the demand had not been properly raised by the present workman so as to constitute an industrial dispute within the meaning of the law and that being so there could be no valid reference of the dispute for adjudication. The learned representative of the workman concerned has not been able to satisfy me to the contrary. Issue No. 2 is, therefore, decided against the workman and in favour of the management.

In view of my above findings on issue Nos. 1 and 2, it is not necessary to go into issue No. 3 relating to the merits of the case, as per the term of reference, because the demand having not been properly raised by the workman concerned, no industrial dispute existed between the parties which could be validly be referred for adjudication and further that the description of the management having not been given correctly in the demand notice as well as the order of reference, it is liable to be dismissed on this ground also.

For the reasons aforesaid, the present reference stands to be dismissed and the workman concerned is not entitled to any relief by way of reinstatement or payment of back dues and the award is made accordingly. There, shall, however, be no order as to costs.

Dated 9th April, 1975.

O. P. SHARMA,

Presiding Officer,

Industrial Tribunal, Haryana,
Faridabad.

No. 701, dated 15th April, 1975

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

Dated 15th April, 1975.

O. P. SHARMA,

Presiding Officer,

Industrial Tribunal, Haryana,
Faridabad.

M. SETH,

Commissioner and Secretary to Government,
Labour and Employment Departments, Haryana.